IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLN.NO.1314 OF 2007

Anantrai Manilal Chhatbar
and Ors. ..Applicants

Vs.

State of Maharashtra ..Respondents

...

Mr.S.P.Kanuga Advocate for Applicants
Mr.K.V.Saste A.P.P. for the State

...

**CORAM: SMT.V.K.TAHILRAMANI,J.**
**DATE : JUNE 18, 2007**

**P.C.**

1. Heard the learned advocate for the applicants

and the learned A.P.P. for the State.

2. The applicants are seeking anticipatory bail in C.R.No.99 of 2006 of Economic Offences Wing, Unit III, Mumbai. The said case is under Sections 406 and 420 r.w. 34 of IPC.

3. It is the case of the complainant that during the period from 14.1.2006 to 22.7.2006 the applicants purchased grey cotton from him and other prosecution witnesses worth over Rs.2 crores. The applicants sold the said grey cotton material to

one Mr.Mahesh Vora (co-accused). The applicants issued cheques to the complainant and other prosecution witnesses which came to be dishonoured. On behalf of the prosecution, it is stated that applicants used to create confidence in the minds of grey cotton manufacturers, thereafter, they used to convince the grey cotton manufacturers to sell their goods and the applicants used to sell the grey cotton to Mahesh Vora (co-accused) and others and used to get huge amounts. However, the applicant failed to pay any amounts to the persons from whom they purchased the grey cotton including the complainant.

4. Mr.Kanuga, the learned counsel appearing for the applicant, submitted that this is purely a civil dispute between the parties and the criminal complaints have been filed only to pressurise the present applicant. In the present case, it is seen that Mr.Mahesh Vora was arrested by the police and police have recovered goods worth about Rs.37 lakhs from him. Though the applicants have received goods worth about Rs.2 crores, no payments have been made by them in respect of the goods. The learned A.P.P. has pointed out that the applicants are habitual offenders and they are facing

prosecution in a similar case. The said case is C.R.No.54 of 2007 of Kolhapur. It is further submitted that in the present case the investigation is in progress and the police have to recover the goods from the applicants hence, their custodial interrogation is necessary.

5. It is submitted that sons of the applicant i.e. Amit and Bhavesh have been released on bail in C.R.No.5 of 2007 and the case in respect of those two persons and the applicant is similar. However, the present application is for anticipatory bail and not for bail. It is well settled that the considerations for grant of bail and anticipatory bail are entirely different. The Apex Court has so observed in the case of *State Vs. Anil Sharma reported in (1997) 7 SCC 187*. The case is at the stage of investigation. For the purposes of investigation, there is enough material to point out an accusing finger against the present applicant in respect of a criminal offence. The Apex Court has observed in the case of *Directorate of Enforcement Vs. P.V.Prabhakar Rao, reported in 1997 SCC (Cri.) 978* that when the material collected by the prosecution is such as to point out an accusing finger against the applicant, it is

not a fit case to grant anticipatory bail. In my opinion case, the custody of the applicant is required to properly investigate the matter.

6. In the present case, admittedly, the applicants have purchased the grey cotton from the complainant and others and admittedly, the complainant has not received the payment for all the goods. Looking to the facts of this case, in my view, prima facie case is made out against the applicants. Hence, I do not think that this is a fit case to grant anticipatory bail. Application is rejected.

7. The learned Magistrate shall not be influenced by any observations made in this order while deciding the application of the applicants for bail or while deciding the trial.

8. Application is disposed of.

[Smt. V.K.Tahilramani, J.]